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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,)	CASE NO. CR 15-0273 WHA
Plaintiff,)	
v.)	APPLICATION OF THE UNITED STATES FOR
)	A PRELIMINARY ORDER OF FORFEITURE
LOUIE MARTIN VILLANUEVA,)	
Defendant.)	

The United States of America, by and through the undersigned Assistant United States Attorney, respectfully submits this Application of the United States for Issuance of a Preliminary Order of Forfeiture in the above-captioned case. In support thereof, the United States sets forth the following:

On May 19, 2015, defendant Louie Martin Villanueva was charged by an Indictment with violation of 18 U.S.C. § 922(g)(1) (Felon in Possession of a Firearm). The Indictment also sought criminal forfeiture pursuant to 18 U.S.C. § 924(d), of the following property including but not limited to:

- a. One Glock brand, Model 20, 10 MM pistol, bearing serial number LEL007;
- b. Multiple 10 MM rounds of ammunition found inside the Glock pistol;

1 c. One Smith & Wesson brand, Model SW9VE, 9 MM Pistol, bearing serial number
2 DWM7579 and

3 d. Multiple 9 MM round of ammunition found inside the Smith and Wesson pistol

4 On October 21, 2015, the defendant pled guilty to Count One of the captioned Indictment in
5 violation of 18 U.S.C. § 922(g)(1). The defendant further agreed to forfeit his interest in the following
6 property (hereinafter "subject property"):

7 a. One Glock brand, Model 20, 10 MM pistol, bearing serial number LEL007;

8 b. Multiple 10 MM rounds of ammunition found inside the Glock pistol;

9 c. One Smith & Wesson brand, Model SW9VE, 9 MM Pistol, bearing serial number
10 DWM7579 and

11 d. Multiple 9 MM round of ammunition found inside the Smith and Wesson pistol.

12 On January 11, 2016, the defendant was committed to the custody of the United States Bureau of
13 Prisons to be imprisoned for a total term of 37 months and was ordered to forfeit his interest in the
14 subject property.

15 The defendant further admitted that the subject property was involved in the offense and thus is
16 forfeitable to the United States pursuant to the provisions of 18 U.S.C. § 924(d), 21 U.S.C. § 853 and
17 the procedures outlined in Rule 32.2 of the Federal Rules of Criminal Procedure.

18 Rule 32.2 (b)(1) of the Federal Rules of Criminal Procedure provides that as soon as practicable
19 after entering a guilty verdict or accepting a plea of guilty or nolo contendere on any count in an
20 indictment or information with regard to which criminal forfeiture is sought, the court shall determine
21 what property is subject to forfeiture under the applicable statute. If forfeiture of specific property is
22 sought, the court shall determine whether the government has established the requisite nexus between
23 the property and the offense. If the government seeks a personal money judgment against the defendant,
24 the court shall determine the amount of money that the defendant will be ordered to pay. The court's
25 determination may be based on evidence already in the record, including any written plea agreement or,
26 if the forfeiture is contested, on evidence or information presented by the parties at a hearing after the
27 verdict or finding of guilt.

1 Pursuant to Rule 32.2(b)(2), if the court finds that property is subject to forfeiture, it shall
2 promptly enter a preliminary order of forfeiture setting forth the amount of any money judgment or
3 directing the forfeiture of specific property without regard to any third party's interest in all or part of it.
4 Determining whether a third party has such an interest shall be deferred until any third party files a claim
5 in an ancillary proceeding under Rule 32.2(c).

6 Rule 32.2(b)(3) further provides that the entry of a preliminary order of forfeiture authorizes the
7 Attorney General (or a designee) to seize the specific property subject to forfeiture; to conduct any
8 discovery the court considers proper in identifying, locating, or disposing of the property; and to
9 commence proceedings that comply with any statutes governing third-party rights. At sentencing - or at
10 any time before sentencing if the defendant consents - the order of forfeiture becomes final as to the
11 defendant and shall be made part of the sentence and included in the judgment. The court may include
12 in the order of forfeiture conditions reasonably necessary to preserve the property's value pending any
13 appeal.

14 Pursuant to the plea, the United States has established the requisite nexus between the subject
15 property and the offense to which the defendant plead guilty. Accordingly, the subject property is
16 subject to forfeiture to the United States pursuant to 18 U.S.C. § 924(d), 21 U.S.C. § 853 and the
17 procedures outlined in Rule 32.2 of the Federal Rules of Criminal Procedure.

18 Upon the issuance of a Preliminary Order of Forfeiture and pursuant to 21 U.S.C. § 853 (n), and
19 Rule G(4)(a)(iv) of the Supplemental Rules for admiralty or Maritime Claims and Asset Forfeiture
20 Actions, the United States will publish on www.forfeiture.gov, a government website for at least thirty
21 days, notice of this Order, notice of its intent to dispose of the property in such manner as the Attorney
22 General may direct and notice that any person, other than the defendant, having or claiming a legal
23 interest in the property must file a petition with the Court and serve a copy on David Countryman,
24 Assistant United States Attorney, 450 Golden Gate Avenue, Box 36055, San Francisco, CA 94102,
25 within thirty (30) days of the final publication of notice or of receipt of actual notice, whichever is
26 earlier. This notice shall state that the petition shall be for a hearing to adjudicate the validity of the
27 petitioner's alleged interest in the property, shall be signed by the petitioner under penalty of perjury and
28

1 shall set forth the nature and extent of the petitioner's right, title or interest in the forfeited property and
2 any additional facts supporting the petitioner's claim and the relief sought. The United States may also,
3 to the extent practicable, provide direct written notice to any person known to have alleged an interest in
4 the property that is the subject of the Preliminary Order of Forfeiture, as a substitute for published notice
5 as to those persons so notified.

6 WHEREFORE, the United States respectfully requests that this Court enter a Preliminary Order
7 of Forfeiture which provides for the following:

- 8 a. authorizes the forfeiture of the subject property to the United States;
- 9 b. directs the United States, through its appropriate agency, to seize the forfeited property
10 forthwith;
- 11 c. authorizes the government to conduct discovery in order to identify, locate or dispose of
12 property subject to forfeiture in accordance with Rule 32.2(b)(3) of the Federal Rules of Criminal
13 Procedure;
- 14 d. directs the United States to publish on a government website for at least thirty days,
15 notice of this Order, notice of the government's intent to dispose of the property in such manner as the
16 Attorney General may direct and provide notice that any person, other than the defendants, having or
17 claiming a legal interest in the subject property must file a petition with the Court and serve a copy on
18 government counsel within thirty (30) days of the final publication of notice or of receipt of actual
19 notice, whichever is earlier; and
- 20 e. the Court to retain jurisdiction to enforce the Preliminary Order of Forfeiture, and to amend
21 it as necessary, pursuant to Federal Rule of Criminal Procedure 32.2(e).

22 DATED: 1/23/16

Respectfully submitted,

BRIAN J. STRETCH
Acting United States Attorney

STEPHANIE M. HINDS
Assistant United States Attorney

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,)	CASE NO. CR 15-0273 WHA
)	
Plaintiff,)	PROPOSED PRELIMINARY ORDER OF
)	FORFEITURE
v.)	
)	
LOUIE MARTIN VILLANUEVA,)	
)	
Defendant.)	
_____)	

Having considered the application for a preliminary order of forfeiture filed by the United States and the defendant's plea agreement on October 21, 2015, and good cause appearing,

IT IS HEREBY ORDERED that the following property is forfeited to the United States:

- One Glock brand, Model 20, 10 MM pistol, bearing serial number LEL007;
- Multiple 10 MM rounds of ammunition found inside the Glock pistol;
- One Smith & Wesson brand, Model SW9VE, 9 MM Pistol, bearing serial number DWM7579 and
- Multiple 9 MM round of ammunition found inside the Smith and Wesson pistol

pursuant to 18 U.S.C. § 924(d), 21 U.S.C. § 853 and the procedures outlined in the Rule 32.2 of the

1 Federal Rules and Criminal Procedure.


2 IT IS FURTHER ORDERED that the United States, through its appropriate agency, shall seize
3 the forfeited property forthwith and publish on www.forfeiture.gov, a government website for at least
4 thirty days, notice of this Order, notice of the government's intent to dispose of the property in such
5 manner as the Attorney General may direct and provide notice that any person, other than the defendant,
6 having or claiming a legal interest in the property, must file a petition with the Court and serve a copy
7 on government counsel with (30) days of the final publication of notice or of receipt of actual notice,
8 whichever is earlier.
9

10 IT IS FURTHER ORDERED that, the government may conduct discovery in order to identify,
11 locate or dispose of property subject to forfeiture in accordance with Rule 32.2(b)(3) of the Federal
12 Rules of Criminal Procedure; and

13 IT IS FURTHER ORDERED that the Court to retain jurisdiction to enforce the Preliminary
14 Order of Forfeiture, and to amend it as necessary, pursuant to Federal Rule of Criminal Procedure
15 32.2(e).

16 IT IS FURTHER ORDERED that, pursuant to Rule 32.2(b)(3) of the Federal Criminal Rules of
17 Procedure, this Preliminary Order of Forfeiture shall become final as to the defendant at the time of
18 sentencing and shall be made part of the sentence and included in the judgment.
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20 IT IS SO ORDERED this 27th day of January, 2016.

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22 
23 WILLIAM ALSUP
24 United States District Judge
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